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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Truth-in-Billing  
and  
Billing Format

CC Docket No. 98-170

**Petition for Temporary, Limited Waiver**

Consolidated Telephone Cooperative, Inc. ("Consolidated") and its affiliate, Consolidated Telcom, Inc. ("CTI")(collectively the "Petitioners"),<sup>1</sup> by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.<sup>2</sup> Specifically, the Petitioners seek temporary waiver of the requirements of Section 64.2401(b) regarding description of charges (the "TIB Description Requirement").<sup>3</sup> The Petitioners seek this waiver until January 1, 2000. The Petitioners recognize

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<sup>1</sup> Attachment A is the declaration of L. Dan Wilhelmson, General Manager of the Petitioners. The declaration bears a facsimile signature. The original signed declaration will be filed with the Commission upon receipt by counsel.

<sup>2</sup> In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999)("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

<sup>3</sup> 47 C.F.R. § 64.2401(b) states that:

Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

that a pending Petition filed by the United States Telecom Association ("USTA") seeks similar relief for USTA member companies,<sup>4</sup> and would not otherwise cover either of the Petitioners unless the relief sought was applied to all carriers as USTA has suggested.<sup>5</sup> Moreover, the Petitioners understand that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, the Petitioners request a waiver of the TIB Requirements until January 1, 2000. Until the waiver requested expires, the Petitioners will continue to work diligently on the software billing system changes necessary to comply with the TIB Description Requirement, and, even after the waiver expires, their customer representatives will continue to provide assistance to customers with questions concerning charges for particular services when such inquiries are made. The Petitioners respectfully submit that these actions will ensure that the underlying public interest objectives of the TIB requirements will be advanced during the time that the requested waiver is in effect.

## **I. Background**

Consolidated provides exchange and exchange access services to approximately 3,800 access lines in North Dakota. CTI provides exchange and exchange access services to approximately 4,700 access lines in North Dakota. Each of the Petitioners is a rural telephone company under the

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<sup>4</sup> See Public Notice, DA 99-1616, released August 13, 1999.

<sup>5</sup> See Reply Comments of USTA, CC Docket 98-170, filed September 10, 1999 at 2.

Communications Act of 1934, as amended.

The Petitioners utilize North Central Data Cooperative ("NCDC") for their billing software and bill rendering. After release by the FCC of its TIB Order, the Petitioners began addressing the various TIB requirements with NCDC in order to ascertain what billing system changes would be required to ensure the Petitioners' compliance. Accordingly, the Petitioners included these activities as one part of their respective Year 2000 issue checklist associated with all of their computer-based systems.

Although TIB compliance efforts were undertaken, the Petitioners have now determined that they will not be able to comply with the TIB Description Requirement with respect to the charges that they include as part of their respective local service charge. Currently, in coordination with NCDC, the Petitioners are in the process of developing the software necessary to disaggregate the dial tone and other local service charges (e.g., custom calling features) which are currently bundled into one local service charge. The bills rendered by this new software will then be tested in an effort to ensure compliance with the FCC's standard that service descriptions must contain "brief, clear, non-misleading, plain language."<sup>6</sup> Even in the absence of this additional bill detail, however, the Petitioners note that they have had very few customer complaints regarding their local service charges.

Compounding these challenges is the fact that the Petitioners are also in the process of consolidating their separate billing systems into one system (which was undertaken approximately one (1) month ago), while, at the same time, merging the operations of CTI into Consolidated. Each

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<sup>6</sup> 47 C.F.R. § 64.2401(b).

of these consolidations is scheduled to be completed by January 1, 2000, the same date for which compliance with the TIB Description Requirement is expected to be achieved. Accordingly, both corporate consolidation efforts and billing software system limitations confronting the Petitioners with respect to implementing the TIB Description Requirement make compliance by November 12, 1999 infeasible.<sup>7</sup>

## **II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver**

Based on these facts and circumstances, the Petitioners respectfully submit that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, Petitioners are making diligent efforts to comply with the TIB requirements effective November 12, 1999. However, the Petitioners' compliance with the TIB Description Requirement is not feasible by this date in light of the various billing system software upgrades being developed and the various operational consolidation efforts underway. Consistent with the implementation of those consolidations, the Petitioners anticipate that compliance with the TIB Description should be possible by January 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.<sup>8</sup>

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<sup>7</sup> See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

<sup>8</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

Moreover, the Petitioners respectfully submit that the public interest would be served by this action. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.<sup>9</sup> The software changes required by Petitioners' billing system clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"<sup>10</sup> are not applicable here. The Petitioners are working toward TIB compliance and seek only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that the Petitioners are attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of the Petitioners; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements in a manner consistent with the status of the overall TIB compliance efforts by the Petitioners.

Second, the Commission has already recognized that certain aspects of the TIB implementation process require a blanket waiver for all companies.<sup>11</sup> Consistent with the underlying rationale of that waiver, the implementation challenges confronting the Petitioners with respect to

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<sup>9</sup> See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

<sup>10</sup> Id. at para. 16.

<sup>11</sup> See n. 7, supra.

complying with the TIB Description Requirement likewise warrant this brief delay. This is particularly true where the brief delay requested by Petitioners will help promote efficiency and continuity in the enhancements and consolidation of their billing system capability without the Petitioners incurring unnecessary expense.

Third, the underlying goal of the TIB Description Requirement -- the ability of a customer to identify charges -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, the Petitioners will continue to provide customer service assistance regarding billing inquiries and questions. In this way, the goal of the TIB Description Requirement would be advanced. Waiver of the TIB Description Requirement as requested herein will merely maintain the status quo until such time as the billing system modifications are made as part of the Petitioners' consolidation, while effecting the goals of these requirements in an alternative manner. Moreover, the Petitioners expect that harm, if any, to the public interest would be minimal. The Petitioners have experienced only about 12 customer inquiry contacts over the past year regarding its local service description and anticipate that the level of customer inquiry should not materially change over the time that the requested waiver is in place.

### **III. Conclusion**

Because Consolidated and CTI are technically incapable of complying with the TIB Description Requirement by November 12, 1999, a grant of this request until January 1, 2000 will ensure that the Petitioners can implement their on-going consolidations and upgrades required to implement the TIB Description Requirement in an efficient manner while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be

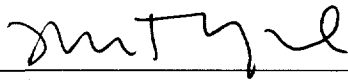
furthered by the Petitioners as they continue to provide customer assistance and responsiveness when questions are received regarding the charges for local services.

Accordingly, in the event that action on the USTA Petition and/or the Associations Petition does not grant the extent of the relief requested herein, Consolidated and CTI request a waiver of the requirements of 47 C.F.R. § 64.2401(b) until January 1, 2000.

Respectfully submitted,

**Consolidated Telephone Cooperative, Inc.**  
**Consolidated Telecom, Inc.**

By



David Cosson  
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Its Attorneys


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October 29, 1999

**Declaration of L. Dan Wilhelmson  
General Manager for  
Consolidated Telephone Cooperative, Inc and  
Consolidated Telcom, Inc.**

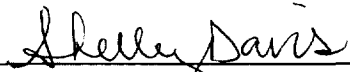
I, L. Dan Wilhelmson, General Manager of Consolidated Telephone Cooperative, Inc, and Consolidated Telcom, Inc. (the "Companies"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding Companies is true and accurate to the best of my knowledge, information, and belief.

Date 10-29-99

  
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L. Dan Wilhelmson  
General Manager

**CERTIFICATE OF SERVICE**

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Consolidated Telephone Cooperative, Inc. and Consolidated Telcom, Inc. was served on this 29th day of October, 1999 by hand delivery to the following parties:

  
\_\_\_\_\_  
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